

**Massachusetts Bay Transportation Authority
Security Sensitive Information
Certification and Conditions of Custody
Security Sensitive Information Non- Disclosure
and Confidentiality Agreement (“NDA”)**

The undersigned certifies that it is receiving information from the **Massachusetts Bay Transportation Authority** (the “Authority”) pursuant to a request for information, documents and records to assist with the development and coordination of the Green Line Extension project (“GLX” or the “Project”).

The undersigned certifies its understanding that the material to be received pertains to Authority assets and infrastructure that have been deemed critical or important to operations, and are considered confidential and/or security sensitive information, exempted from public disclosure, pursuant to 49 U.S.C. 40119(b)(1) and 49 CFR 15.5(b)(16), and M.G.L. c. 4, § 7(26)(n). The undersigned has been authorized by the Authority to receive the confidential and/or security sensitive information in the form of plans, reports, surveys, AutoCAD files or any other information in any form (the “Records”).

This authorization is granted based upon compliance with the following conditions.

1. The undersigned certifies that the Records are being made available for the limited and stated purpose in the original request to assist with the development and coordination of the Project, and are not to be disclosed to unauthorized persons without written authorization of the Authority.
2. The undersigned confirms it may be subject to penalty if the Records are released in violation of this NDA.
3. The undersigned certifies that access to the Records will be limited to those persons, including its employees, consultants and contractors, who have been designated by the undersigned as having a need to review the Records in order to successfully provide services or perform applicable tasks (“Authorized Personnel”).
4. The undersigned certifies that it has established a protocol to ensure that Authorized Personnel have the proper credentials and background to view and perform services involving security sensitive information; and has developed a protocol to limit access, reproductions and distribution of the Records to Authorized Personnel; and will continue to safeguard the Records even after it has completed work associated with the Records. Upon the earlier of the completion of its work or when the Records are no longer needed or upon written request of the Authority, the undersigned agrees to return all Records to the Authority.

5. The undersigned certifies that it has developed proper safeguards and records management procedures to insulate the Records from inappropriate or unauthorized disclosure. The undersigned agrees that it will make good faith efforts to safeguard and not disclose the contents of, or copy or duplicate, any of the Records except as necessary for the undersigned's Authorized Personnel to complete its work. Disclosure of documents or the information contained there to any other party other than Authorized Personnel in whole or in part or in any document created by the undersigned, and shall require prior written authorization and approval from the Authority. The undersigned acknowledges that it has an ongoing perpetual obligation to protect data in the Records from disclosure unless prior written authorization is obtained from the Authority.
6. The undersigned agrees that if at any time it discovers that any of the Records have been inappropriately disclosed, the undersigned will immediately report the same to the Authority.
7. The undersigned certifies that it will advise its own employees, agents, contractors, consultants or any other third party of the nondisclosure obligation. The undersigned agrees that prior to granting any access to any Authorized Personnel other than its own employees, it will obtain a certification in the same form as this certification from any entity utilizing said Authorized Personnel. The undersigned also agrees that prior to granting any access to any Authorized Personnel it will obtain an NDA from that person.

Original certifications from all entities utilizing Authorized Personnel and original NDAs from all Authorized Personnel must be provided to the Authority before the Records will be released. If, following release of the Records, additional Authorized Personnel are identified, original certifications and NDAs must be delivered to the Authority before the Records are released to the additional Authorized Personnel.

The undersigned confirms that failure to make good faith efforts to comply with these conditions for the approved limited purposes, including the disclosure, copying and/or duplication of information contained in the Records in whole or in part to unauthorized persons, without written authorization of the Authority, may result in the revocation of custody of the Records and/or other penalties. The Authority shall be entitled, in addition to all other rights or remedies, to seek injunctions restraining such breach, without being required to show any actual damage or to post any bond or other security.

The undersigned agrees that if served with a subpoena or discovery request or receive a public records disclosure request relating to, or if otherwise required by law to disclose any Record, the undersigned will immediately provide the Authority with written notification and provide a copy to the Authority to permit the Authority to seek a protective order or take other appropriate action. The undersigned agrees to cooperate in the Authority's efforts to obtain a protective order or other assurance that secure treatment will be afforded the Records. In the absence of the

protective order, the undersigned may disclose to the party compelling the disclosure only the part of the Records as is required to be disclosed (in which case, prior to such disclosure, the undersigned will advise and consult with the Authority as to such disclosure and the nature and wording of the such disclosure) and the undersigned will use best efforts to obtain confidential treatment thereof.

The following conditions shall apply to any AutoCAD file supplied by the Authority. The Authority will use best efforts to clearly identify and mark as "Security Sensitive" all documents, files or other data delivered to Authorized Personnel that are subject to this Agreement. All documents, files or other data accessible from this file are provided solely as a courtesy to facilitate access to information. The Authority provides such documents, files or other data "as is" without any warranty of any kind, either expressed or implied, including but not limited to, accuracy, reliability, omissions, completeness and currentness. The Authority and its consultants shall not be liable for any claim for damages, including lost profits or other consequential, exemplary, incidental, indirect or special damages, relating in any way to the documents, files or other data accessible from this file, including, but not limited to, claims arising out of or related to electronic access or transmission of data or viruses. Because data stored on electronic media can deteriorate undetected or be modified without our knowledge, the Authority cannot be held liable for its completeness or correctness. The Authority makes no representation as to the compatibility of these files. The undersigned understands that this authorization does not give the undersigned the right to distribute the files.

This Agreement shall be governed by and construed in accordance with laws of the Commonwealth of Massachusetts, without reference to its conflicts of laws principles.

The undersigned understands and accepts the conditions of custody relative to receipt and the possession of the Records.

Entity Name: CDM Smith agent for CITY OF CAMBRIDGE

Signature: By: 

Date: November 30, 2018

Name of Authorized Signatory: 

Phone Number: 617 452 6399

Address: 75 State Street, Suite 701, Boston, MA 02109